

AUG 31 2004

This facsimile message and its contents are legally privileged and confidential information intended solely for the use of the addressee. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this message and its contents is strictly prohibited. If you have received this telecopy in error, please notify us immediately by telephone and return the original message to us at the address shown below via the Postal Service. Thank You.

**ALSTON & BIRD LLP**

101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
704-444-1000  
Fax: 704-444-1111

**TELECOPY****PLEASE DELIVER IMMEDIATELY****DATE:** August 31, 2004**TO: UNITED STATES PATENT AND TRADEMARK OFFICE**  
**Mail Stop Petitions**  
**ATTENTION: Cliff Congo, Petitions Attorney**

Andrew T. Spence  
Reg. No. 45,699

**In re:** Burford et al.**Appl. No.** 10/706,480**Filed** October 27, 2003 (Applicant Filed); April 7, 2004 (USPTO Date Entered)**Title:** SYSTEM AND ASSOCIATED FRICTION STIR WELDING (FSW) ASSEMBLY, CONTROLLER  
AND METHOD FOR PERFORMING A FRICTION STIR WELDING OPERATION**Confirmation No.** 8066**Art Unit:** 1725**Mr. Congo:**

According to your instructions, attached is a copy of the Request for Reconsideration of Petition to Grant Filing Date and To Refund Petition Fee (with attached Exhibits A - D) and a copy of our Return Postcard showing that the Request for Reconsideration was mailed on 07-23-04, and received by the USPTO on July 23, 2004. Please process the attached documents as necessary for consideration by the Office of Petitions. Thank you.

**NO. OF PAGES:**  
(Including cover page)

9

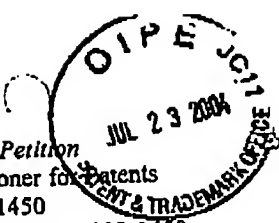
**OPERATOR:****IF NOT RECEIVED PROPERLY, PLEASE NOTIFY ME IMMEDIATELY AT****USER CODE:** SIMMB**FAX NUMBER:**

703-872-9306

**CLIENT/MATTER:** 038190/268379**REQUESTED BY:** Sarah Simmons 1142**VOICE NUMBER:**

CLT01/4544166v1

**COPY**

  
Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Application No. 10/706,379; Filing Date October 27, 2003  
Inventor(s): Dwight A. Burford et al.; Title of Invention: System and  
Associated Friction Stir Welding (FSW) Assembly, Controller and Method for  
Performing a Friction Stir Welding Operation

Express Mail Label No. EY 331631265 US

Date Mailed: 07-23-04

Atty. Dkt. No. 038190/268379

Documents Enclosed: Request for Reconsideration of Petition to Grant  
Filing Date and To Refund Petition Fee (Exhibits A - D)

Kindly acknowledge receipt by placing office stamp hereon and  
returning postcard to: Alston & Bird LLP -- Sarah B. Simmons/ATS

**COPY**

AUG 31 2004

Attorney's Docket No. 038190/268379

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re: **Burford *et al.***  
Appl. No.: **10/706,480**  
Applicant Filed: **October 27, 2003**  
USPTO Date Entered: **April 7, 2004**  
For: **SYSTEM AND ASSOCIATED FRICTION STIR WELDING (FSW)  
ASSEMBLY, CONTROLLER AND METHOD FOR PERFORMING  
A FRICTION STIR WELDING OPERATION**

Confirmation No.: **8066**  
Group Art Unit: **1725**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Request for Reconsideration of  
Petition To Grant Filing Date And To Refund Petition Fee**

This is a Request for Reconsideration of our Petition filed April 7, 2004, wherein Applicants petitioned to grant the proper filing date of October 27, 2003, for the above-identified patent application.

Applicants' Petition was dismissed June 10, 2004. The Petitions Examiner has stated that Applicants have not submitted a proper return postcard showing that the application was filed October 27, 2003. However, the Patent Office did not properly stamp Applicants' postcard. Instead, the Patent Office returned Applicants' postcard with the stamp by the Office of License and Review and the date that the Office of License and Review received it. Therefore, it is the Patent Office who improperly stamped Applicants' postcard, thereby leaving Applicants without a properly stamped postcard to produce as evidence.

On October 27, 2003, Applicants sent a United States Postal Service Package to Mail Stop Patent Application (see Exhibit A). The package contained two filings for the same invention: 1) a complete application as outlined on Applicants' return postcard (see Exhibit B); and 2) a Request for Foreign Filing License accompanied by a copy of the specification and drawings as well as another return postcard specifically drawn to the Request for Foreign Filing License (see Exhibit C).

Both of Applicants' postcards are stamped "Received Oct. 30, 2003 Licensing & Review." Applicants can only surmise that when the package was received by Patent Office

In re: Burford *et al.*

Appl. No.: 10/706,480

Applicant Filed: October 27, 2003.

USPTO Date Entered: April 7, 2004

Page 2

personnel at Mail Stop Patent Application, the package was not separated out into two different filings; each being separately clipped together by Applicants along with its own postcard. The patent application was not retained for proper processing and stamping of the postcard with an application number and the correct date of October 27, 2003. But instead, the complete application with 25 pages of specification and six pages of drawings and other accompanying documents, as well as the Petition for Foreign Filing License with its copy of the specification and drawings, were forwarded to Licensing and Review, which stamped both postcards October 30, 2003. Only the Petition for a Foreign Filing License and the copy of the specification attached to it with its postcard clipped on top should have been forwarded to Licensing and Review.

As further evidence that the Patent Office did indeed receive a complete copy of the specification and drawings, Applicants also submit herewith as Exhibit D a copy of the foreign filing license granted by the Office of License and Review on October 31, 2003. According to 37 C.F.R. §§ 5.13 and 5.14, when a petition for a foreign filing license is made in the Patent Office, the petition must be accompanied by the material or the disclosure of a patent application upon which the desired license is measured. Since the Office of License and Review granted a foreign filing license for the present application on October 31, 2003, the Patent Office must have had the specification and drawings as the measure upon which the license was granted at least as far back as October 30, 2003, the date stamped on the return postcard and indicated as being the request date on the foreign filing license. Moreover, since the specification and drawings must have accompanied the petition, and the petition for a foreign filing license was included in the aforementioned United States Postal Service Package sent on October 27, 2003, the specification and drawings of the present application must have also been included in the aforementioned package.

Applicants therefore respectfully request that the filing date of October 27, 2003 (the date on the Express Mail Label which date also appears on Applicants' return postcard) be granted. Applicants further believe that if the Examiner cannot grant this date, that there is a preponderance of evidence that the Patent Office had the complete application on October 30, 2003. The Applicants should not be burdened because Patent Office personnel improperly

In re: Burford *et al.*

Appl. No.: 10/706,480

Applicant Filed: October 27, 2003

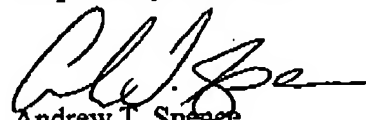
USPTO Date Entered: April 7, 2004

Page 3

handled the application by forwarding both separately clipped sets of documents to Licensing and Review, and did not hold and process the application that was separately clipped with its own postcard. Moreover, Applicants' petition should not be denied because of the improper processing of the present application and the improper stamping of Applicants' return postcard has left Applicants without the postcard the Petitions Examiner is requesting.

It is Applicants' understanding that there is no charge for a Request for Reconsideration of our Petition. And because no defect existed in Applicants' originally filed patent application, Applicants request a filing date of October 27, 2003, and respectfully also request a refund of the previously paid \$130.00 petition fee.

Respectfully submitted,


  
Andrew T. Spence  
Registration No. 45,699

CUSTOMER NO. 00826  
ALSTON & BIRD LLP  
Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
Tel Charlotte Office (704) 444-1000  
Fax Charlotte Office (704) 444-1111

"Express Mail" mailing label number EV 331631265 US

Date of Deposit July 23, 2004

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

  
Sarah B. Simmons  
CLT01/4658231v1

EV331631265US